own story in a connected and intelligible manner, as Professor Thayer has made his authorities tell the story of the development of the jury in England, — "its strange and wholly peculiar course for some six or eight centuries." For the present writer to criticise Professor Thayer's learning would be absurd. But there is something more than learning to be remarked in the book. The fact that an author is learned in his subject is hardly any guaranty, to say the least, that his book will not be dry bones and dust for the general reader, and a terror to the struggling student; for both of which classes of persons Professor Thayer has partly intended at least this portion of his book. Certainly they have to thank him for making his work not only thorough and accurate, but also lucid and interesting.

Of the four chapters composing this first part, the first gives some account of the older modes of trial, things hard to understand properly at the end of the nineteenth century, but here explained graphically, yet concisely. The three following chapters give an account of the trial by jury and its development, a subject practically of the greatest use in appreciating the true nature of our present law of evidence, and yet full of curious and interesting legal antiquities. The second chapter deals with the origin and establishment in England of the jury system; the third chiefly with the ways taken to inform the jury; and the fourth chiefly of the means of controlling the jury and correcting their errors. All of these chapters, in a less finished form, have appeared in the pages of the HARVARD LAW REVIEW (Vol. V., pp. 45, 249, 295, 357).

R. G.

GOVERNMENTS AND PARTIES IN CONTINENTAL EUROPE. By A. Lawrence Lowell. Boston and New York: Houghton, Mifflin & Co. 1896. 2 vols. pp. xiv, 377, and viii. 455.

This book deals with the practical workings of Continental governments in which party divisions necessarily play an important part. The author limits himself to those countries where for various reasons the system of two parties does not exist. He gives an outline of the structure and recent history of government in France, Italy, Germany, Austria-Hungary, and Switzerland; and prints in an appendix the constitution of each country. Of matters distinctively legal, mention may be made of the account of the relations between the administrative and the ordinary courts in France and Italy.

Mr. Lowell, however, views the institutions from a governmental and political, rather than a legal standpoint. He shows how in France the subdivision of parties has rendered the ministers, who are responsible to the deputies, practically helpless, and subject to frequent changes as party coalitions shift; while in Italy the same cause has made politics rather a contest of personal cliques than of principles. In Germany the central figure is the Chancellor, whose independence of the legislative assembly reduces the parties to a position comparatively unimportant. In Austria and Hungary the bitter race feeling presents the most serious problem, a difficulty which the latter country has solved by concentrating the power in the hands of the Magyars. The unique relations of these two nations, which, though unlike in race and naturally rivals, are forced by pressure from without to stand united, form the subject of an interesting chapter. In Switzerland, the "referendum" and the "initiative" naturally attract our attention, as furnishing a basis for possible changes

in our own system. The former, Mr. Lowell thinks, has worked well there, though probably not adapted to our conditions; the success of the latter he considers doubtful even in Switzerland.

The author has thus collected in an attractive form a great amount of information not otherwise accessible in English, and his keen analysis of causes and effects, as well as his grasp of present conditions, makes the book of value not only to students of the theories of government, but to any one who wishes to follow current European events intelligently. C. S. T.

THE LAW OF EVIDENCE IN CIVIL CASES. By Burr W. Jones, of the Wisconsin Bar, Lecturer on Evidence in the University of Wisconsin. San Francisco: Bancroft-Whitney Co. 1896. 3 vols. 18mo. pp. xxviii, 2198.

Mr. Jones has produced three excellent little volumes, which it is safe to predict will be speedily appreciated and used by the profession and by students as well. He is concise, but with no sacrifice of clearness, while he has a faculty of expressing himself in a manner peculiarly easy of comprehension. The primary object has been "to furnish a convenient text-book for trial lawyers, stating tersely the rules of law which govern in the trial of civil cases." The cases cited are numerous, though a full collection of authorities is not attempted as it would be impracticable. There is no very extended discussion but there is quite sufficient for practical purposes; enough to relieve the bareness of mere statement of rules. A key to exhaustive inquiry is furnished by the references to articles in periodicals, which are valuable but ordinarily not easy to find because of the necessary limitations of an index pure and simple.

The author shows a clear grasp of his subject, but he does not attempt to supplant long used terms by more accurate ones. His indication of their exact scope may often save a slip, however, while the information is still in a workable form. On page 23 it is said, "Yet it may well be urged that all of these so-called conclusive presumptions may be more properly described as rules of law than as conclusive presumptions of law." Had this been clearly realized, the form of a presumption would never have served as a cloak for judicial legislation which the judges were unwilling to avow.

While it has been impossible to test these volumes exhaustively, they appear to be singularly free from flaws. In treating of the use of writings on cross-examination, however, the writer does not point out the distinction between proof of contents and questioning as to contents for purposes of impeachment only. §§ 232, 850. The general rule, founded on *The Queen's Case*, 2 Br. & Bing. 284, is given, to the effect that the writing must be introduced and its contents proved in the ordinary way before the witness can be questioned as to its contents. The sound rule, supported by *Randolph* v. *Woodstock*, 35 Vt. 291, 295, is to allow the question whether a different statement has not been made by the witness in a letter, and only require proof of contents in the ordinary way if the answer is not accepted. As the value of such a course is apparent, it might be found expedient to raise the question in a jurisdiction where it is open. In § 232, however, it is noticed that the rule has been changed in England by statute. It is probable, therefore, that the author did not consider it wise to take up the question, interesting as it is as a matter of principle. E. S.